

### **Remarks**

#### **Amendments to the Claims**

Claims 1-12, 14-16 and 35-54 were pending in this application. Claims 1-37, 39, 40, and 42-54 are canceled by this Amendment. Applicants expressly reserve the right to pursue protection of any or all of the canceled subject matter in a subsequent application.

In addition, Claims 38 and 41 are amended herein, and new Claim 55 is added. Support for the claim amendments can be found throughout the specification or is discussed below, where necessary.

Entry of the amendments after final action is appropriate because the amendments either cancel claims or adopt Examiner Counts' suggestions in the Office action. It is believed that these amendments, if entered, place the case in condition for allowance. See MPEP § 714.12.

No new matter is introduced by these amendments. After entry of this amendment **Claims 38, 41, and 55 are pending in this Application.**

#### **Claim Rejections under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph**

Claims 1-12, 14-16, and 35-44 have been rejected under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph for allegedly being indefinite for the reasons specified below. Applicants traverse the rejection.

Claims 1-11, 14-16, 35-37, 39, 40, and 42-54 are allegedly indefinite in the recitation of the term "tissue structures." Of these, claims 1-12, 14-16, 35-37, 39, 40, and 42-54 have been canceled herein, rendering moot the § 112, 2<sup>nd</sup> paragraph rejection. Applicants request that this rejection be withdrawn as to these claims.

The phrases "cells or tissue structures" and "other tissue structures" were introduced in the previous Response, mailed on August 15, 2003, in order to overcome an indefiniteness rejection of the term "components." As stated in the previous Response, support for this language can be found throughout the specification, *e.g.*, at page 1, line 19 (previously misstated

as line 8) (referring to capturing “desired cells or tissue structures”); at page 11, lines 7-11; at page 15, lines 12-17; and at page 22, line 30.

While it is believed that the phrase “tissue structures” is not vague or indefinite and would be understood by one of ordinary skill in the art, the amended claims submitted herewith have been drafted to avoid this phrase, in order to advance prosecution in this matter. Applicants therefore request that this rejection be withdrawn.

Allowable Subject Matter

**Claims 12 and 41**

The Examiner in the pending final Office action indicted that Claims 12 and 41 would be allowable “if rewritten in independent form including all of the limitations of the base claim and any intervening claims.”

New claim 55 corresponds to Claim 12, modified to include each of the limitations of Claim 35 (base claim) and Claims 1 and 9 (intervening claims). Claim 41 has been amended to recite the limitations of Claim 39 (base claim) and Claim 40 (intervening claim). Entry of new Claim 55 and the amendments in Claim 41 is proper and requested, because these claims as presented herein are in condition for allowance.

**Claim 38**

The Examiner also indicated in the pending final Office action that Claim 38 would be allowable “if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph in this Office action.”

As discussed above, Claim 38 has been amended herein to remove the allegedly indefinite phrase “other tissue structures.” It is believed that this amendment is proper and requested, because it would place Claim 38 in condition for allowance.

*Other Rejections of the Claims*

All other claims previously pending in the application have been cancelled, thus rendering rejections of those claims moot. Applicants therefore request that the pending rejections be withdrawn.

**Conclusions**

Applicants thank Examiner Counts for his helpful suggestions regarding allowable subject matter in the present application. It is believed that **Claims 38, 41, and 55** are now in condition for allowance, and that no rejections remain. Applicants therefore request that a Notice of Allowance be issued.

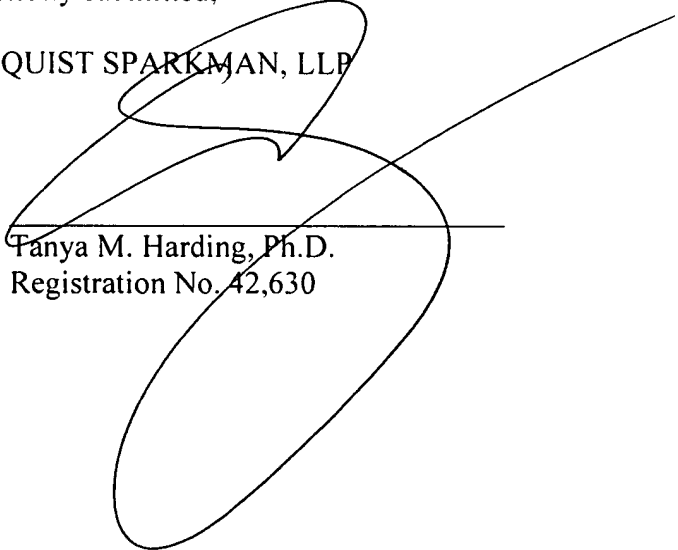
If any minor issues remain to be resolved before such a Notice can be issued, the Examiner is respectfully requested to telephone the undersigned at the number shown below.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

By

Tanya M. Harding, Ph.D.  
Registration No. 42,630



One World Trade Center, Suite 1600  
121 S.W. Salmon Street  
Portland, Oregon 97204  
Telephone: (503) 226-7391  
Facsimile: (503) 228-9446